REMARKS

Claims 2-3 and 24 have been canceled. Claims 1, 4-23, and 25-28 remain pending in the application. Applicants amend claims 1, 8, 13, and 22 for clarification. No new matter has been added.

Applicants respectfully request that the Examiner indicate acceptance of the drawings.

Claims 1, 4-5, 8-11, 13, and 15-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over European Patent Application Publication No. EP 0967559 to Chueng-Hsien et al. in view of "Multiwavelength Cross-Connects for Optical Transport Networks" by Zhong et al., and further in view of U.S. Patent No. 5,583,994 to Rangan; claims 22-23 and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chueng-Hsien et al. and Zhong et al., and further in view of U.S. Patent Application Publication No. 2001/0049730 to Brendes et al.; claims 6-7, 12, 14, and 17-21 stand rejected 35 U.S.C. § 103(a) as being unpatentable over Chueng-Hsien et al., Zhong et al., Rangan, and Brendes et al.; and claims 27 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Chueng-Hsien et al., Zhong et al., Rangan, and further in view of U.S. Patent No. 6,425,005 to Dugan et al. Applicants amend claims 1, 8, 13, and 22 in a good faith effort to clarify the invention as distinguished from the cited references, and respectfully traverse the rejections.

The Examiner relied upon the description of a technique to "guarantee delivery of objects" in paragraphs [0023]-[0024] of Chueng-Hsien et al. as alleged disclosure of the claimed feature of transmitting stored data when there is no congestion. The cited portions of Chueng-Hsien et al. include description of a sender confirming that a receiver has properly received transmitted data by whether the sender receives a receipt acknowledgement from the receiver.

Chueng-Hsien et al. also describes effecting a recovery after a receiver is determined to be "unavailable." In particular, Chueng-Hsien et al. describe "re-transmitting" all of the files that are missed by the receiver while it is "unavailable." Chueng-Hsien et al. further describe "[t]he receivers that have not been unavailable receive a second copy of the objects, but that is not detrimental." Paragraph [0025] of Chueng-Hsien et al. Therefore, Chueng-Hsien et al. clearly only describe transmitting data to a receiver first, and then confirming whether the transmitted data is received properly. Indeed, the cited portions of Chueng-Hsien et al. explicitly state the objective of guaranteeing delivery of objects, and that sending a second—duplicate—copy of the objects is not detrimental. As such, Chueng-Hsien et al., as cited and relied upon by the Examiner, only describe sending data, confirming receipt, and re-sending the data.

The Examiner relied upon Brendes et al. as a combining reference that allegedly suggests a congestion monitor responding unit for responding to congestion polling. The Examiner cited and relied upon the additional combining references to specifically address the remaining features recited in the claims—the Examiner relied upon Zhong et al. as allegedly disclosing "a network wherein connections are accomplished via optical cross-connect equipment forming an exchange function unit"; relied upon Rangan as allegedly disclosing a technique for "employing servers caching data for a selected time period...[and for] storing the data for a valid term"; and relied upon Dugan et al. to specifically address the additional features recited in dependent claims 27-28.

Again, Chueng-Hsien et al., as relied upon by the Examiner, only describe confirming data receipt and monitoring a receiving unit for the purpose of confirming receipt of sent data. As such, even assuming, arguendo, that it would have been obvious to one skilled in the art at the

time the claimed invention was made to combine the cited references, such combinations would have, at most, suggested congestion monitoring and responses from a receiver unit, as described in Brendes et al., for the purpose of confirming proper receipt of sent data for "guarantee[ing] delivery of objects," as described in Chueng-Hsien et al.

In other words, such combinations would still have failed to disclose or suggest,

> "[a] data distribution system comprising:
> a data distribution server for supplying data to a user side;
> at least one access server provided on the user side and transferring intended data to each user; and
> a network cache apparatus provided in a network wherein said data is distributed between said data distribution server and said access server, said network cache apparatus having a cache function unit for temporarily storing said data from said data distribution server and an exchange function unit for routing the stored data to said access server corresponding to a destination user, said cache function unit storing said data for a valid term based on a distribution valid term transferred from said distribution server simultaneously with said data, the stored data being transmitted to said access server ***after*** confirming that a reception buffer of said access server is not in a congestion state, wherein
> both said data distribution server and network cache apparatus and both said network cache apparatus and access server are connected via an optical cross-connect equipment forming said exchange function unit of the network cache apparatus and said data is distributed by wavelength multiplex transmission," as recited in claim 22. (Emphasis added)

Advantageously, the claimed invention provides for avoiding re-transmission of a second copy of data, which Chueng-Hsien et al. explicitly describe as not detrimental, to improve efficiency, especially for large data transmissions.

Accordingly, Applicants respectfully submit that claim 22, together with claims 23 and 25-26 dependent therefrom, is patentable over the cited references, separately and in combination, for at least the foregoing reasons. Claims 1, 8, and 13 incorporate features that

correspond to those of claim 22 cited above, and are, therefore, together with claims 4-7, 9-12, 14-21, and 26-28 dependent therefrom, respectively, patentable over the cited references for at least the above-stated reasons.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.

Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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